IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODPUR

ORDER

S.B. Criminal Misc. Petition No.1440/2007

(Amzad Khan & Ors. Vs. State.)

Date of Order : 20th September, 2007

HON'BLE MR. H.R. PANWAR, J.

Mr. Ramesh Purohit for petitioner.
Mr. Ashok Upadhyay, PP.

Issue notice for final disposal.

Mr. Ashok Upadhyay, learned Public Prosecutor is directed to accept the notice. He accepts the notice. Learned counsel for the petitioner has supplied a copy of the criminal misc. petition to the learned Public Prosecutor. With the consent of the learned counsel for the parties, the matter is finally heard and decided at the admission stage.

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 22nd August, 2007 passed by the learned Additional Sessions Judge (Fast Track) No.1, Bhilwara (for short 'the trial court') framing

charge against the accused petitioners for the offences under Sections 452, 323/34, 324, 324/34, 393, 392/34, 307 & 307/34 IPC and 4/25 of the Arms Act.

Heard learned counsel for the petitioner and the learned Public Prosecutor. Perused the material available on record.

Learned counsel for the petitioner has confined his argument and challenge order framing charge to the extent of the offences under Sections 307 and 307/34 IPC only. No challenge has been made to the other offences. It has been contended by learned counsel for the petitioner that there are two injuries only on the person of Umrao Singh and Bharat Singh. Umaro Singh suffered two injuries which are simple in nature, one of which was by sharp and other by blunt object which is on non-vital part of the body. Bharat Singh also suffered two injuries, which are simple in nature, by blunt object. The injuries suffered by Umrao Singh and Bharat Singh are re-produced herein.

Umrao Singh

1. Incised wound	1 ½ cm x 1/3 cm	left to the Rt eye	simple	sharp
2. Abrasion	1 cm x 1 cm	on the left palm	simple	Blunt

Bharat Singh

1. Lacerated wound	1 cm x 1/3 cm	on the tip of left great toe	simple Blunt
2. Swelling	3 cm x 2 cm	on the left temp region	simple Blunt

On carefully perusal of the injury report and the manner in which the incident happened and accused petitioner Amzad Khan suffered head injury on the left fronto parietal region, it cannot be said that the accused petitioners caused the injuries with the intention or knowledge, and under such circumstances that if, he by that act caused death, they would be guilty of murder. Looking to the injuries which are simple in nature and on non-vital part of the body, the learned trial court fell in error in framing charge under Section 307 and 307/34 IPC.

In the result, the order impugned dated 22nd August, 2007, passed by the learned Additional Sessions Judge (Fast Track) No.1, Bhilwara to the extent framing charge against the accused petitioners for the offences under Sections 307 and 307/34 stands set aside and the petitioners are discharged for the offences under Sections 307 & 307/34 IPC. However, for rest of the offences framing charge by the learned trial court is

maintained. Now, the trial court shall proceed under Section 228 Cr.P.C. The petition is allowed to the extent indicated above.

(H.R. Panwar), J.

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S.B. Criminal Misc. Stay Petition No.864/2007

Date of Order : 20th September , 2007

HON'BLE MR. H.R. PANWAR, J.

Mr. Ramesh Purohit for petitioner.
Mr. Ashok Upadhyay, PP.

Since, the main petition itself has been decided, the stay application also stands disposed of.

(H.R. Panwar), J.

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